

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GEORGE S. HOFMEISTER FAMILY TRUST,
et al,

Plaintiffs,

Case No. 06-CV-13984-DT

v.

FGH INDUSTRIES, LLC, et al,

Defendants.

/

ORDER SETTING SCHEDULE FOR PRELIMINARY PROCEEDINGS

Pending before the court is Plaintiffs' Motion for Preliminary Injunction. On October 4, 2006, the court held a telephone conference with counsel for all parties. Defendants informed the court that they intend to file motions to dismiss and that one basis for such a motion would argue that the court lacks subject matter jurisdiction. The court will conduct preliminary proceedings as follows.

IT IS ORDERED that Defendants file their jurisdictional challenge¹ in a motion to dismiss by **October 30, 2006**. Plaintiffs shall respond by **9 a.m. on November 7, 2006**.

IT IS FURTHER ORDERED that Defendants respond to Plaintiffs' Motion for Preliminary Injunction [Dkt #5] by **October 30, 2006**. Plaintiffs may, but need not, file a reply to Defendants' response; if such is to be filed, it is due by **9 a.m. on November 7, 2006**.

¹ Defendants reserve the possibility of raising other dispositive grounds in a separate, later motion; Plaintiffs informed the court that they do not oppose such reservation.

The court will hear oral argument² on both Defendants' jurisdictional challenges and Plaintiffs' motion for a preliminary injunction at **9 a.m. on November 9, 2006.** Because this court is one of limited jurisdiction, *Bender v. Williamsport Area School District*, 475 U.S. 534, 541 (1985), it has a duty to see that the jurisdiction granted by the Constitution is not exceeded, *Louisville & Nashville R.R. v. Mottley*, 211 U.S. 149 (1908), and so will first consider and dispose of colorable jurisdictional challenges.

IT IS FURTHER ORDERED that Defendants may file non-jurisdictional challenges, if any, in a motion to dismiss under Federal Rule of Civil Procedure 12(b) **within two weeks of the entry of either a) an order overruling Defendants' jurisdiction challenge, or b) a preliminary injunction, if either of these occur.**

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 6, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 6, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

²Please note that the court will not send a separate notice of this oral argument.